

AN ACT

relating to the collection and use of biometric identifiers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 503.001, Business & Commerce Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) A person who possesses a biometric identifier of an individual that is captured for a commercial purpose:

(1) may not sell, lease, or otherwise disclose the biometric identifier to another person unless:

(A) the individual consents to the disclosure for identification purposes in the event of the individual's disappearance or death;

(B) the disclosure completes a financial transaction that the individual requested or authorized;

(C) the disclosure is required or permitted by a federal statute or by a state statute other than Chapter 552, Government Code; or

(D) the disclosure is made by or to a law enforcement agency for a law enforcement purpose in response to a warrant; ~~and~~

(2) shall store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner that is the same as or more protective than the manner in which the

1 person stores, transmits, and protects any other confidential
2 information the person possesses; and

3 (3) shall destroy the biometric identifier within a
4 reasonable time, but not later than the first anniversary of the
5 date the purpose for collecting the identifier expires, except as
6 provided by Subsection (c-1).

7 (c-1) If a biometric identifier of an individual captured
8 for a commercial purpose is used in connection with an instrument or
9 document that is required by another law to be maintained for a
10 period longer than the period prescribed by Subsection (c)(3), the
11 person who possesses the biometric identifier shall destroy the
12 biometric identifier within a reasonable time, but not later than
13 the first anniversary of the date the instrument or document is no
14 longer required to be maintained by law.

15 (c-2) If a biometric identifier captured for a commercial
16 purpose has been collected for security purposes by an employer,
17 the purpose for collecting the identifier under Subsection (c)(3)
18 is presumed to expire on termination of the employment
19 relationship.

20 SECTION 2. (a) The changes in law made by this Act apply to
21 a biometric identifier possessed by a person:

22 (1) on or after the effective date of this Act; or

23 (2) before the effective date of this Act, subject to
24 Subsection (b) of this section.

25 (b) A person who before the effective date of this Act
26 possesses a biometric identifier that is required to be destroyed
27 because of the changes in law made by this Act shall destroy the

1 biometric identifier on or before October 1, 2009.

2 SECTION 3. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3186 was passed by the House on May 15, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3186 on May 29, 2009, by the following vote: Yeas 136, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3186 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor